



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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Case #: ZBA 2016-142
Site: 28 Hawthorne Street
Date of Decision: March 15, 2017
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: March 17, 2017

ZBA DECISION

Applicant Name:	Hawthorne Development Ventures, LLC
Applicant Address:	52 Cedar Street, Cambridge, MA 02140
Property Owner Name:	Hawthorne Development Ventures, LLC
Property Owner Address:	52 Cedar Street, Cambridge, MA 02140
Agent Name:	Robert D. Costello, Esq.
Agent Address:	421 Highland Avenue, Somerville, MA 02144

<u>Legal Notice:</u>	Applicant/Owner, Hawthorne Development Ventures, LLC, seeks a Special Permit under SZO §4.4.1 to alter a nonconforming structure, §9.13 for parking relief, and a Special Permit with Site Plan Review under §7.2 to locate more than one principal structure on the lot by constructing a new single family dwelling on the locus.
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<u>Zoning District/Ward:</u>	RB zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1, §9.13 & §7.2
<u>Date of Application:</u>	November 16, 2016
<u>Date(s) of Public Hearing:</u>	March 15, 2017
<u>Date of Decision:</u>	March 15, 2017
<u>Vote:</u>	5-0

Appeal #ZBA 2016-142 was opened before the Zoning Board of Appeals at Somerville City Hall on March 15, 2017. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one hearing of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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DESCRIPTION:

The proposal is to renovate the existing single family dwelling by altering the dormer on the left elevation, constructing a new dormer on the right elevation, and demolishing a shed in the rear. The interior and exterior of the structure will be completely renovated. The Applicant also proposes to construct a new single-family dwelling as a second principal structure on the lot. Site improvements are also proposed that include a patio for each dwelling, three off-street parking spaces, and added landscape features.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 and §9.13) and SPECIAL PERMIT with SITE PLAN REVIEW (SZO §7.2):

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail.

1. **Information Supplied:**

The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project.

2. **Compliance with Standards:** *The Applicant must comply “with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit and special permit with site plan review.”*

Special Permit to alter a nonconforming structure (§4.4.1)

The structure is currently nonconforming with respect to the minimum dimensional requirements for lot area and left side yard setback. Section 4.4.1 states that “[l]awfully existing one-and two-family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5.” The proposal will impact the nonconforming left side yard setback, which has a current dimension of 0.7 feet. The proposal is to relocate and extend the existing dormer toward the rear of the structure. The existing dormer is nine feet long and the proposed dormer is 13-feet long and will have a skylight. This alteration to a nonconforming structure requires the Applicant to obtain a special permit under §4.4.1 of the Somerville Zoning Ordinance (SZO). In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure.

Special Permit for parking relief (§9.13)

SZO §9.13 allows for sites with nonconforming parking to apply for a Special Permit to modify parking requirements if the total number of spaces is less than six. The locus is currently nonconforming with respect to the number of required off-street parking spaces as two are required for the existing single family dwelling and only one is provided. The existing driveway is 17.1 feet wide where an 18 foot wide driveway is required for two off-street parking spaces.

Special Permit with Site Plan Review (§7.2)

SZO §7.2 allows for more than one principal structure per lot in the RB zoning district by Special Permit with Site Plan Review granted from the Zoning Board of Appeals.

3. **Purpose of District:** *The Applicant has to ensure that the project “is consistent with the intent of the specific zoning district as specified in Article 6”.*

The proposal is consistent with the purpose of the district, which is, “to establish and preserve medium density neighborhoods of one-, two-, and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.” The Board finds that the renovation of the existing single



family dwelling and the construction of a new single family dwelling will be compatible and convenient for the residents of the district.

4. Site and Area Compatibility: *The Applicant has to ensure that the project “(i)s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area”.*

Surrounding Neighborhood: Hawthorne Street is located just east of Davis Square. The surrounding neighborhood is comprised of single, two-, and three-family dwellings. The houses on this side of the street are all set back between 10-15 feet and range in height from two to three stories. Across the street are two- and three-family dwellings that are set back between 5-10 feet and also range from two to three stories.

Impacts of Proposal (Design and Compatibility):

Special Permits with Site Plan Review applications must meet the design guidelines under SZO §5.2.4. The design guidelines for residential districts are as follows:

1. *Buildings should be generally of the same size and proportions as those existing in the neighborhood. This shall apply in cases of multi-family development as well as one-, two-, and three-family units. For example, if relatively small two- and three-family structures are common in a neighborhood where multi-family development is proposed, the multi-family development should be physically broken into components that, from a design perspective, are housed in buildings of similar width, depth, and height as those typically found in the neighborhood.*

The proposed new structure is generally the same size as the existing structure and is proportionate to other structures on the street in terms of width, depth, and height.

2. *Use of traditional and natural materials is strongly encouraged (e.g. wood clapboard, wood shingles, brick).*

The proposed material for the existing and proposed structure is horizontal cementitious siding.

3. *Additions to existing structures should be consistent with the architecture of the existing structure in terms of window dimensions, roof lines etc.*

N/A

4. *Although additions should not clash with or be incompatible to the existing structure, it is acceptable and even desirable for the new construction to be distinguishable from the existing building, perhaps by maintenance of design elements of the original building that would otherwise be lost (e.g. false rakes, fasciae, and the like).*

The proposed new structure maintains design elements of the existing building such as the gable, covered porch, and fenestration although in a manner that is distinguishable from the existing building.

5. *Where practical, new or infill building construction should share the same orientation to the street as is common in the neighborhood. When not contrary to any other zoning law, front and side yards should be of similar dimensions as those typical in the area.*

The proposed new building shares the same orientation to the street and front yard setback as the existing structure and the majority of structures on the even side of Hawthorne Street.

6. *Driveways should be kept to minimal width (perhaps a maximum of twelve feet), and be designed so that no vehicle parked on the drive may straddle the public sidewalk in any way. Low barriers or plantings may be required to separate the parking area from the pedestrian space.*



The proposal will close the existing curb cut and create a new one for a shared driveway between the two structures.

7. *Transformers, heating and cooling systems, antennas, and the like, should be located so they are not visible from the street or should be screened.*

A condition of approval is that any transformers, heating and cooling systems, antennas, and the like, should be located in a manner so that are not visible from the street or should be screened.

8. *Sites and buildings should comply with any guidelines set forth in Article 6 of this Ordinance for the specific base or overlay zoning district(s) the site is located within.*

N/A

5. Functional Design: *The project must meet “accepted standards and criteria for the functional design of facilities, structures, and site construction.”*

The project meets accepted standards and criteria for the functional design of facilities, structures, and site construction.

6. Impact on Public Systems: *The project will “not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.”*

The proposal is not expected to create adverse impacts on the public services and facilities serving the locus, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.

7. Environmental Impacts: *“The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.”*

The proposal is not expected to create an adverse impact on the environment.

8. Consistency with Purposes: *“Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections.”*

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to avoid undue concentration of population; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

9. Preservation of Landform and Open Space: *The Applicant has to ensure that “the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped*



areas are visible to the neighborhood.”

The proposal will involve minimal grading and the quality of open space will be enhanced from its current state and will enhance the attractiveness of the neighborhood and will be visible to the neighborhood.

10. Relation of Buildings to Environment: *The Applicant must ensure that “buildings are: 1) located harmoniously with the land form, vegetation and other natural features of the site; 2) compatible in scale, design and use with those buildings and designs which are visually related to the development site; 3) effectively located for solar and wind orientation for energy conservation; and 4) advantageously located for views from the building while minimizing the intrusion on views from other buildings.”*

The proposal is designed at a scale that is compatible with the use and design of other buildings in the neighborhood.

13. Enhancement of Appearance: *The Applicant must demonstrate that “the natural character and appearance of the City is enhanced. Awareness of the existence of a development, particularly a non residential development or a higher density residential development, should be minimized by screening views of the development from nearby streets, residential neighborhoods of City property by the effective use of existing land forms, or alteration thereto, such as berms, and by existing vegetation or supplemental planting.”*

The natural character and appearance of the City will be enhanced as the existing structure has not seen investment in quite some time and a new single family dwelling will increase the aesthetics of the Hawthorne Street streetscape.

21. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*

There will be no adverse impact on the stock of affordable housing.

SomerVision Plan: *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville’s neighborhoods, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

The character of the neighborhood will be preserved and enhanced.

<u>SomerVision Summary</u>	<u>Existing</u>	<u>Proposed</u>
<i>Dwelling Units:</i>	1	2
<i>Affordable Units:</i>	0	0
<i>Commercial Sq. Ft.:</i>	0	0
<i>Estimated Employment:</i>	0	0
<i>Parking Spaces:</i>	1	3

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie with Pooja Phaltankar absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit and a Special Permit with Site Plan Review. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for alterations to the existing single family dwelling and the construction of a new single family dwelling. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO / BP	ISD/Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>November 16, 2016</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>February 15, 2017</td><td>Modified plans submitted to OSPCD (T-1, T-2, Z-1, Z-2, A-0, A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8, A-9, and A-10)</td></tr><tr><td>October 26, 2016</td><td>Certified plot plan submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	November 16, 2016	Initial application submitted to the City Clerk’s Office	February 15, 2017	Modified plans submitted to OSPCD (T-1, T-2, Z-1, Z-2, A-0, A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8, A-9, and A-10)	October 26, 2016	Certified plot plan submitted to OSPCD
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October 26, 2016	Certified plot plan submitted to OSPCD											
Any changes to the approved site plan or elevations/use that are not <i>de minimis</i> must receive SPGA approval. Whether or not a change is <i>de minimis</i> in nature must be determined by the Planning Office.												
Pre-Construction												
2	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Eng									
3	The proposed basement finished floor elevation shall not be less than is 1 foot above the Seasonal High Ground Water elevation. The seasonal high ground water elevation shall be determined by a Massachusetts certified soil evaluator and stated on a signed soil test pit log.	BP	Eng.									
4	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions.	BP	Eng									



5	The Applicant shall conduct a survey of the houses of the abutting property owners prior to excavation of the site, and document their findings. These findings shall be submitted to the Planning Department as public record. The Applicant then shall survey any damage to the abutting property owner's houses after excavation and reimburse the property owners for any damages.	BP	Plng.	
Construction Impacts				
6	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	Plng.	
7	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW	
8	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P	
Design				
9	Applicant shall provide final material samples for siding, trim, windows, and doors to the Design Review Committee for review and comment and to Planning Staff for review and approval prior to construction.	BP	Plng.	
10	An exterior light and electrical receptacle is required for the first (or all) level of the porch.	Final sign off	Wiring Inspector	
Site				
11	Pea Stone gravel shall be used as the material for the driveway and the parking spaces. Permeable pavers shall be used as the hardscape material for the front portion of the driveway for the first 15 foot long segment. The walkways leading from the sidewalk to each front door shall both be constructed of permeable pavers. The Applicant shall submit a landscaping plan to be reviewed and approved by Planning Staff prior to the issuance of a Building Permit and a letter from an arborist that assesses the health of the existing mature trees. Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	
12	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
13	Any transformers, heating and cooling systems, antennas, and the like, should be located in a manner so that are not visible from the street or should be screened.	CO	ISD/Plng.	



Miscellaneous				
14	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
Public Safety				
15	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
16	Notification must be made, within the time period required under applicable regulations, to the Massachusetts Department of Environmental Protection (DEP) if there is any release of oil, hazardous materials, or regulated hazardous substances at the site. The City's OSE office, Fire Department and the Board of Health shall also be notified.	At time of release	OSE/FP/B OH	
17	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
18	The Applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	CO	Plng/OSE	
Final Sign-Off				
19	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.	

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino
Josh Safdie

Attest, by the Administrative Assistant:

Dawn M. PereiraCopies of this decision are filed in the Somerville City Clerk's office.
Copies of all plans referred to in this decision and a detailed record of the
SPGA proceedings are filed in the Somerville Planning Dept.**CLERK'S CERTIFICATE**

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____

